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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
VICTOR MARTINEZ, ESMELIN GONZAGA, :
JUAN RAMIREZ, Individually and on : ECF
Behalf of All Other Persons Similarly Situated, :
Plaintiffs, : 13 Civ. 2644 (LGS)
: :
-against- :
: :
MIDTOWN CLEANER, INC., MIDTOWN :
CLEANERS II, INC., BYUNG Y. KIM, :
and JOHN DOES #1-10 :
: :
Defendants. :
-----X

**PLAINTIFFS' REPLY MEMORANDUM OF LAW IN
SUPPORT OF MOTION
FOR APPROVAL OF COLLECTIVE ACTION NOTICE**

Dated: New York, New York
September 5, 2013

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and on Behalf of All Other Persons Similarly Situated
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PRELIMINARY STATEMENT

Plaintiffs VICTOR MARTINEZ, ESMELIN GONZAGA, and JUAN RAMIREZ (“Plaintiffs”) on behalf of themselves and on behalf of each and all other persons similarly situated, by their attorney, submit this reply memorandum of law in support of their Motion for Approval of Collective Action Notice (hereafter, the “Motion”).

ARGUMENT

I. THE MOTION FOR COLLECTIVE ACTION APPROVAL SHOULD BE APPROVED BECAUSE DEFENDANTS’ AFFIDAVIT IN OPPOSITION TO THE MOTION MERELY STATES THAT DEFENDANTS ARE NOT AWARE OF THE SIMILAR EMPLOYEES AND ARE NOT IN POSSESSION “OF ANY USEFUL INFORMATION AND/OR RECORD BOOKS”

The motion for collective action approval should be approved because Defendants’ affidavit in opposition to the motion merely states that Defendants are not aware of the similar employees and are not in possession “of any useful information and/or record books.” See

Paragraphs 4 and 6 of the Affidavit of Defendant Byung Y. Kim a/k/a David Kim. Defendant has not stated that the prior employees similar to the Plaintiffs did not similarly work over 40 hours a week and did not similarly receive a salary and no premium overtime pay. The affidavit also does not show that the other employees are not similarly situated.

The Affidavit of Defense Attorney, Thomas Kim, Esq. should be disregarded as it merely states the same allegations as the Defendant's affidavit, and an attorney cannot testify as to facts of which he does not have direct personal knowledge.

CONCLUSION

The Plaintiffs have shown by their declarations that they are similarly situated with other former and current employees of Defendants. Accordingly, Defendants should be required to post notice of delivery persons and/or cashiers and/or stock clerk employees' right to join this action in a conspicuous location at its office, and Defendants should provide the names and addresses and email addresses and telephone numbers of delivery persons and/or cashiers and/or stock clerk employees' and employees with different titles who have similar duties and other non-managerial, non administrative workers they employed within six years preceding the date of the Complaint, so that notice of this action may be communicated to them. For the foregoing reasons, Plaintiffs respectfully requests that Plaintiffs' Motion be granted.

Dated: New York, New York
September 5, 2013

LAW OFFICE OF WILLIAM COUDERT RAND

s/William C. Rand

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